

Town of Lincoln

100 Old River Road, Lincoln RI

Zoning Board of Review

May 2, 2006 Minutes

Present: Raymond Arsenault, Kristin Rao, Arthur Russo, Jr., David Gobeille, Nicholas Rampone, Mark Krieger, Esquire (Town Solicitor)

Excused: Gabriella Halmi, Jina Petrarca-Karempetsos

Minutes

Chairman Arsenault asked if there any corrections to the April 2006 Minutes. Minutes approved as presented with a 5-0 vote.

Correspondence/Miscellaneous

Russell Hervieux, Zoning Official informed the Board that the Town is updating the Comprehensive Permit ordinance and presented Board members with a draft copy. A comprehensive plan application will be heard at the June meeting and the Zoning Board will be making recommendations to the Planning Board. Chairman Arsenault asked Mr. Hervieux to specify the standards for the Zoning Board to review the application at the June meeting. Mr. Hervieux replied that the actual ordinance does not specify all the standards but needs the Zoning Board to work strictly with recommendations. The ordinance needs to go before the Town Council for approval and signed by the Town Administrator. He also informed the Board that they need to make recommendations to the Planning Board regarding the new

zoning ordinance.

Applications

Omnipoint Communications, Inc., 50 Vision Boulevard, East Providence, RI/St. James Church Corp., 33 Division Street, Manville, RI – Use Variance for the installation, operation and maintenance of a wireless communications facility on property located at 33 Division Street, Manville, RI.

AP 37, Lot 198 Zoned: RG 7

Represented by: Joseph Giammarco, Esquire

Chairman Arsenault informed applicant what standards needed to be met for a Use Variance. Omnipoint wants to install 3 antenna panels on the bell tower of the St. James Church located in Manville, RI. One panel will be on the easterly corner facing Division Street and the other two on the rear of the bell tower. All equipment will be located inside the church. The church is a non-conforming structure on a corner lot and the proposed use is not permitted. Applicant feels this is a good location for their network and they are mandated by the FCC to fill in the gaps. Maintenance personnel will visit the location once or twice per month. The top of the antennas will be at 73 foot height.

Witness

Rafael Velazquez, Electrical Engineer for Omnipoint

Submitted his resume as Exhibit #1. He is not a licensed engineer. Motion made by Member Russo to accept Mr. Velazquez as an expert witness. Motion seconded by Member Rampone. Motion carried with a 5-0 vote.

Applicant wants to expand their network to provide coverage to gap areas which are hindered by topography problems. Witness showed Board members a map illustrating gap areas where there is a lack of coverage resulting in dropped calls. FCC requires they fill in gap areas.

Member Rao asked if any other sites were considered and witness replied a water tank in the area was given consideration but owners were not interested in their proposal. She further asked if any other network carriers had coverage issues and witness replied he could not confirm that. She inquired how the water tank was considered as a location. Witness replied they have teams that go out in the field searching for sites and then report back with possibilities. Omnipoint then looks at these sites to see if it would provide coverage for the gap areas and then filters out the area as a team. Member Rao asked the witness if they pay a standard rent fee or do they scale it out. Witness replied he could not answer the question.

Chairman Arsenault asked if any of the alternate sites were in the three zones that permit towers by special use permits. Attorney replied that one of the locations was at the former Blackstone Valley

Electric site but in this area there was nothing within the gap area that could be permitted without a variance.

Member Rao asked how many carriers could fit on the bell tower. Witness replied it depends on the carrier. The higher the pole the better the coverage. Member Rao asked why there was not any information in the packet explaining why other sites were not considered and why this site was better. Attorney replied they look for existing structures rather than build new towers. The existing steeple was of sufficient height which made it a prime location.

Chairman Arsenault addressed the witness stating that the application package had a fourteen point Affidavit of Radio Frequency Expert signed by Elijah Luutu, RF Engineer and was he present to answer any concerns of the Board. Attorney for applicant replied the expert witness was not at the meeting to testify. Chairman stated that one of his interests was regarding number thirteen which referred to radio frequency radiation. Could the witness tell him what research was done that states this site would operate substantially below the maximum allowable safety standard established by the FCC? Witness replied the FCC would provide a certificate addressing that concern and that the applicant transmits below what the FCC permits. Chairman replied it is a densely populated neighborhood and how is the Board assured that the statement is accurate. Solicitor Krieger asked witness if he was a radio frequency engineer and witness replied in the affirmative. Solicitor Krieger then asked if

Elijah Luuto had more qualifications than the witness and he replied “no”.

Attorney for applicant asked for a continuance to the June agenda so he provide an affidavit from witness and get answers as to what the story was with the water tower. Chairman Arsenault stated if a continuance were granted he would like answers regarding alternate sites, what zones were they in and what the variances for those sites were.

Motion made by Member Gobeille to continue the application to the June agenda. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

Omnipoint Communications, Inc., 50 Vision Boulevard, East Providence, RI/St. James Church Corp., 33 Division Street, Manville, RI – Dimensional Variance for front and rear yard setback and height relief for the installation, operation and maintenance of a wireless communications facility on property located at 33 Division Street, Manville, RI. –

AP 37, Lot 198 Zoned: RG 7

Motion made by Member Gobeille to continue the application to the June agenda. Motion seconded by member Russo. Motion carried with a 5-0 vote.

Keith E. Beck, 8 Bridle Drive, Lincoln, RI – Dimensional Variance for side yard setback for the construction of an addition.

AP 26, Lot 133 Zoned: RA 40

Russell Hervieux, Zoning Official informed the Board that two notices were returned. One was sufficient notice – came back from post office for some unknown reason. He contacted applicant and checked the town field cards for 7 Pine Tree Lane – notice was sent to 66 Valley View Drive, Cranston. Applicant submitted letter into the record a letter dated May 1, 2006 from Gary and Charleen Gosselin stating a letter of notice was hand delivered to the proper address by applicant's wife notifying them of the meeting this evening (Exhibit #1).

Chairman Arsenault informed applicant what standards needed to be met for a Dimensional Variance.

Applicant wants to add a family room and laundry room to their home and needs a side yard setback of 7.5 feet. His mother in law is moving into the home and they need the extra space. The lot consists of 40,000 sq.ft. The Board questioned the total square footage of the lot to see if it meets lot coverage requirements. Applicant was not sure of the dimensions. Russell Hervieux, Zoning Official informed the Board he pulled the building permit when the house was built and the foot print covers 3,950 sq.ft. In the ordinance, accessory structures are included in the coverage factor

of the lot. The pool covers 1,575 sq.ft., the pool house covers 450 sq.ft and the storage/garage covers 484 sq.ft. for a total of 6,459 sq.ft. The addition proposes to add 594 sq.ft bringing the total to 7,053 sq.ft. At 15% coverage, the lot coverage would be 6,001 sq.ft so he needs a variance for lot the coverage issue. Applicant was not aware there was a coverage issue. Chairman Arsenault recommended a continuance so applicant could return with accurate measurements.

Motion made by Member Rao to continue the application to the June agenda. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Blackstone Valley Builders, LLC, 260 Blackstone Street, Blackstone, MA – Special Use Permit for the construction of a two family dwelling unit on property located at the corner of Manville Avenue and Ash Street, Manville, RI.

AP 35, Lot 199 Zoned: RL 9

Represented by: John Shekarchi, Esquire

Russell Hervieux, Zoning Official informed the Board that 2 notices were returned. When he checked the Town's field cards the addresses on the envelopes matched – thus proper notice was mailed for this application.

Chairman Arsenault informed applicant what standards needed to be

met for a Special Use Permit.

Attorney for Applicant submitted the following into the record as Exhibits:

Exhibit #1 Letter dated August 25, 2005 from Donald D'Anjou, Sewer Department Supervisor stating the lot does have access to the town's sewer system

Exhibit #2 Letter dated November 2, 2005 from John S. Faile, PE stating town water is available to the lot

Exhibit #3 Letter dated August 16, 2005 from DEM stating their approval.

Exhibit #4 Letter dated April 27, 2006 from Albert V. Ranaldi, Jr., Administrative Office to the Planning Board recommending approval of the application.

Witness:

William A. DiLibero Esquire, AICP

He appeared before the Planning Board in December 2005 and received approval for this subdivision.

Motion made by Member Rao to accept Mr. DiLibero as an expert witness. Motion seconded by Member Rampone. Motion carried with a 5-0 vote.

Applicant wants to build a 2-family dwelling with town water and sewer. The lot meets all the requirements and the Department of Environmental Management (DEM) has approved the location.

Witness is familiar with the site and the Town's Comprehensive Plan and prepared a report which he submitted into the record as Exhibit #5. The lot is consistent with the land use. The square footage for the subject lot is 19,712 sq.ft. Average lot size of surrounding neighborhood is 14,030 sq.ft. Proposed use is authorized under the zoning ordinance and meets building height and lot coverage requirements.

Chairman Arsenault asked if this proposal was at the current market rate and witness replied that it was. Attorney informed the Chairman that the proposal was for a colonial style 2-family dwelling with 3 bedrooms, 1.5 bath, and walk out basement with an attached garage. Each unit has 1,200 sq.ft. There are four other multi-family homes in the area. Any drainage that occurs will go to natural flow and not the street. Member Gobeille informed the Board that the application met lot coverage at 9.1%.

Chairman Arsenault read into the record the Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted site plan and application. Based on the submitted plan, the applicant has successfully addressed all of the requirements for the zoning and subdivision regulations. The Planning Board feels that this plan represents good land development and is consistent with the existing housing units around

the site. The Planning Board recommends Approval of this special use permit. The Planning Board feels that granting this special use permit will not alter the general character of the surrounding area nor impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Opposed:

John Hill, 12 Birch Street

He informed the Board that the notice he received was incorrect. The property is not located on the corner of Manville Avenue and Ash Street but actually located on the corner of Ash and Birch Streets. One is a paper street. The road was never completed to town standards. He wanted to know where the sewer and water lines would tie into the lot. There is a problem with parking on the street and there was a recent accident involving a trash truck. Needs to back out of the street to get out. There are already 3 houses on Birch Street. There is a school walking path near the proposed lot. Teachers park on Birch Street and use the walking path to the school.

Attorney Shekarchi stated at the time they were submitting the application on 1/20/2006, the map was still being drawn up for the Assessor. Out of an abundance of caution they went to the four corners further out to give more people notice and that is why the notice said Manville Avenue/Ash Street. Proposed address is Birch Street. There will be two driveways and each unit will have a garage to address parking.

Question

Karen Cotter, 154 Chestnut Street

She would like to see some type of buffer planted between Lots 39 and Lot 199 to avoid erosion. The area is too congested and there are problems with vehicles accessing Birch Street. She does not feel an emergency vehicle could get down the street with the current parking problems. Neighbors do not park in their driveways.

James Spooner, Lonsdale

Sympathizes with the residents. In Lonsdale they have been trying to do something about dead end streets with parking problems.

Witness

Michael Savard, Blackstone Valley Builders

Spoke with Water Department who informed him there is a lateral at the end of Birch Street. They are filing an easement along the side of the property in case there is a possibility of running the water so they do not have cut the street and avoid posting a bond. Sewer lateral is in front of the property. This parcel was approved for a single family dwelling and applicant is before this Board to construct a duplex. This house will not impact the existing road.

Attorney informed the Board that the applicant is willing to provide additional parking to address parking concerns of the abutters.

Motion made by Member Gobeille to approve the Special Use Permit with the following conditions:

- Three (3) parking spaces minimum per unit**
- Plant tree buffer between Lot 39 and Lot 199**
- Two (2) turnarounds be developed after building envelope is established**

He further stated:

 That the special use permit meets all the criteria set forth in the zoning ordinance authorizing such special use

 That the granting of the special use permit will not alter the general character of the surrounding area; and

 That the granting of the special use permit will not impair the intent or purpose of the zoning ordinance nor the Lincoln comprehensive plan.

Motion seconded by Member Rampone. Motion carried with a 5-0 vote.

Russell R. Bridges, 1836 Old Louisquisset Pike, Lincoln, RI – Extension of Decision rendered on January 6, 2004 for a Dimensional Variance.

AP 25, Lot 16 Zoned: RA 40

Russell Hervieux, Zoning Official informed the Board that one notice was returned. He notified the applicant who produced an affidavit

from the property owner at the correct address thus proper notice was served.

Town Solicitor Mark Krieger addressed the Board stating he originally held one-half interest in the property owned by applicant which he obtained through a tax sale and later reverted back to applicant. Another attorney in his office has represented applicant in the past and he helped in the preparation of the deed. He does not have any financial interest in the property.

Chairman Arsenault read into the record correspondence dated April 21, 2006 from Gregory Banner (abutter) stating he had no objections to the proposed permit and recommended approval. Letter was not notarized. Applicant confirmed that the Zoning Official had contacted him regarding improper notice.

Applicant originally appeared before this Board in January 2004 and also was granted a one year extension in the Fall of 2005. He needs a 6 month extension to complete the work. Revised application has been filed with the Department of Environment Management regarding plantings which have been completed per instructions from Charles A. Horbert, Permitting Supervisor in correspondence dated April 25, 2006 (attached to application).

Chairman Arsenault read into the record Planning Board recommendations:

Members of the Technical Review Committee reviewed the submitted application for a time extension of a dimensional variance. The Planning Board recommends Approval of the application for a time extension for a dimensional variance. The Board feels that the applicant has been diligently working to start construction of the project within the one year time frame but time ran out.

Motion made by Member Gobeille to grant a 6 month extension to expire November 2, 2006. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

Douglas & Tracy Dame, 17 Columbia Avenue, Lincoln, RI – Dimensional Variance for a front yard setback to add a second story addition to the existing dwelling and re-construct the existing enclosed porch.

AP 6, Lot 289 Zoned: RG 7

Russell Hervieux, Zoning Official informed the Board that one notice to a Pawtucket address was returned. When he checked the Pawtucket's field cards the addresses on the envelopes matched – thus proper notice was mailed for this application.

Chairman Arsenault informed applicant what standards needed to be met for a dimensional variance.

Applicant's family is growing and he wants to add a second story and

porch to the house. Size of the house is 800 sq.ft. with two bedrooms and one bath. Has 2 children and wants to add master bedroom, living room and bath on the second floor. Daughters will use the downstairs bedrooms. Likes the area and want to stay where he is. His lot is split between Lincoln and Pawtucket. Currently has 54 feet of lot width at the setback – needs 6 foot lot width relief. Plans to tear down an existing deck to make room for second floor. New deck will be where porch is currently located.

Witness

John Hoyle, Jr., 1052 Great Road, Lincoln (Designer)

Location of existing deck is currently at 7.57 feet. Encroachment will be lessened by about five feet. Second floor will mirror first floor except for a 6 foot bump out in the front. Exterior of the addition will match existing house with an asphalt roof with an exterior stainless steel chimney. Total height of the house with a second story will be 25 feet to the ridge and roofline will look the same. A mudroom currently exists at the rear of the house.

Chairman Arsenault read into the record Planning Board recommendation:

Members of the Technical Review Committee reviewed the submitted application for a dimensional variance for a front yard setback. The Planning Board recommends Approval of the application. A site visit and review of the proposed site plan indicated that the property has unique characteristics (the Town's border line with Pawtucket runs

thought the property) that prevent the applicant from building in any other direction. The applicant has worked to maintain the existing footprint of the existing house. The Planning Board finds that the requested variance is the least relief required, meets all of the requirements for a dimensional variance, is consistent with the surrounding neighborhood and will be consistent with the Comprehensive Plan.

Motion made by Member Russo to grant a Dimensional Variance for 7.43 foot front yard setback/6 feet lot width relief/2.34 feet northeast side rear yard setback stating:

- Hardship from which the applicant seeks is due to the unique characteristics of the subject land and not due to the general characteristics of the surrounding area and not due to a physical or economic disability of the applicant
- Hardship is not the result of any prior action or the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.
- Granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Comprehensive Plan.
- Relief requested is the least relief necessary.
- Hardship amounts to more than a mere inconvenience.

Motion seconded by Member Rampone. Motion carried with a 5-0 vote.

Motion made by Member Russo to adjourn the meeting. Motion seconded by Member Rao. Motion carried with a 5-0 vote.

Respectfully submitted,

Ghislaine D. Therien

Recording Secretary